

Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Federal-State Joint Board on
Universal Service

CC Docket No. 96-45

Changes to the Board of Directors of the
National Exchange Carrier Association, Inc.

CC Docket No. 97-21

**Petition of the North Carolina Department of Commerce to have its Form 471 for
Year 3 Universal Service Fund Support Deemed Timely Filed**

Now comes the Petitioner, the North Carolina Department of Commerce, by and through the undersigned attorney, and requests that the Commission deem timely filed the Petitioner's Form 471 for Year 3 of universal service support fund for schools and libraries in North Carolina. In support of this request, the Petitioner shows:

1. The Petitioner is a division of State government of the State of North Carolina, which by statute¹ provides telecommunications services to public schools and libraries across the State. Pursuant to the regulations of this Commission, Petitioner is a billed entity² for a consortium³ of hundreds of public schools in North Carolina. The Petitioner successfully participated in Years One and Two of the universal service support fund administered by the Schools and Libraries Division of the Universal Service Administrative Corporation.
2. Based on the "Tips for Successfully Filing the Form 471" published on the web site of the Schools and Libraries Division of the Universal Service Administrative Corporation, which urged applicants to file their Form 471 on line, the Petitioner

¹ N.C. Gen. Stat. 143B-472.42.

² 47 C.F.R. 54.500(a).

³ 47 C.F.R. 54.501(d).

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attempted to electronically file its Form 471 for Year 3 funding on January 19, 2000. Because of the timing of the filing of its Form 470 and the Commission's rules compelling that the Form 470 remain posted on the Schools and Libraries web site for 28 days (see, e.g. Order in Re: Request for Review of the Decision of the Universal Service Administrator by Currituck County Schools, Currituck, North Carolina, File No. SLD-111040, DA 00-625 (March 23, 2000)), the only day the Petitioner had to file its Form 471 before the filing window closed was January 19, 2000.

3. In the course of its attempt to file electronically, the Petitioner discovered that the web site Form 471 format would not easily accommodate consortium filings. Working with the format considerably lengthened the process of filling out the on-line application.
 4. Late in the evening of January 19, 2000, when the Petitioner was ready to submit its Form 471 on line, the Schools and Libraries Division web site went down. The manager on duty attempted to call the Schools and Libraries Division immediately, but was unsuccessful because it was after normal business hours. The manager made the decision to send the application via courier service and arranged for that to happen.
 5. The manager contacted the Schools and Libraries Division after business hours began on January 20, 2000. At that time the manager learned that there had been a server failure for the web site late in the evening of January 19, 2000 and that North Carolina was not the only applicant affected. Subsequent to the initial conversation, the manager inquired and was told that the Schools and Libraries Division had submitted a proposal to the Commission with recommendations on how to handle the applications that were in process when the web site went down on January 19, 2000.
 6. On March 22, 2000, the manager received a postcard from the Schools and Libraries Division informing the Petitioner that its Form 471 had been received outside the filing window. The post card then recited: "We are holding your application pending
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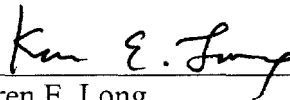
final processing of those applications which were received within the filing window. It has not yet been determine whether late-filed Form 471 applications will be considered for discount funding.” The post card directed the Petitioner to visit the schools and libraries web site for more information.

7. The Petitioner made immediate inquiry of the Schools and Libraries Division and on April 6, 2000, sent the attached letter requesting assistance. (Attachment A).
8. From the Petitioner’s point of view, its Form 471 has been determined to be untimely filed because of a technology failure over which the Petitioner had no control. Indeed, if the Petitioner had not followed the urging of the Schools and Libraries web site to file on line, it would have filed its Form 471 in a timely fashion using courier service.

For the foregoing reasons, the Petitioner requests that its Form 471 be deemed timely filed for year 3 of the universal service fund support.

Respectfully submitted this the 19th day of April 2000.

MICHAEL F. EASLEY
ATTORNEY GENERAL



Karen E. Long
Assistant Attorney General
N.C. Department of Justice
Post Office Box 629
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Certificate of Filing and Service

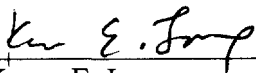
I hereby certify that I have filed a copy of the foregoing **Petition of the North Carolina Department of Commerce to have its Form 471 for Year 3 Universal Service Fund Support Deem Timely Filed** with the Federal Communications Commission by arranging for next day delivery of the original and four copies by prepaid commercial courier service to

Ms. Magalie Roman Salas
Secretary, Federal Communications Commission
Room TW-A325
12th Street Lobby
FCC Portals II Building
445 12th Street SW
Washington, D.C. 20554

I further certify that I have served a copy of the foregoing **Petition** on the Schools and Libraries Division of the Universal Service Administrative Corporation by placing a copy in the U.S. Mail, first class postage prepaid, addressed to

Ms. Ellen Wolfhagen
Counsel, Schools and Libraries Division
Universal Service Administrative Corporation
2120 L. Street NW
Suite 600
Washington, D.C. 20037

This the 19th day of April 2000.



Karen E. Long
Assistant Attorney General
North Carolina Department of Justice
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Raleigh, North Carolina 27602-0629
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North Carolina
Department of Commerce
Telecommunications Services
Office of Information Technology Services

James B. Hunt Jr., Governor
Rick Carlisle, Secretary

James W. Broadwell, Director

April 6, 2000

Ms. Ellen Wolfhagen, Counsel
Schools and Libraries Division
Universal Service Administrative Corporation
2120 L. St. NW
Suite 600
Washington, DC 20037

Re: North Carolina's Form 471 for Year 3

Dear Ms. Wolfhagen:

This letter documents North Carolina's understanding of the server problem the School and Libraries Division experienced late in the evening of January 19, 2000. The State of North Carolina is concerned because when the server went down while we were in the process of submitting our application on line, we were compelled to send our Form 471 via air express to Lawrence, Kansas. We have now received a post card from the Schools and Libraries Division informing us that we did not timely file. From our point of view, our failure to file timely was based on the server failure over which we had no control.

On the evening of January 19, 2000, North Carolina was in the process of preparing our application on line and was very near to submitting it when the web site went down. On January 20, 2000, our e-rate manager spoke with Catriona Ayer in your organization about the problem. At that time, our e-rate manager learned that we were not the only one affected and that there had been a number of complaints about the situation.

My understanding from those members of my staff who have communicated with the Schools and Libraries Division is that the Division has submitted a proposal to the FCC with recommendations on how to handle the applications that were in process when the web site went down. The proposal would extend the criteria for timeliness so that those applicants who tried to file within the window would be deemed as having filed within the window if their failure to file was due to the server problem. A member of my staff has communicated with Mr. Jonathan

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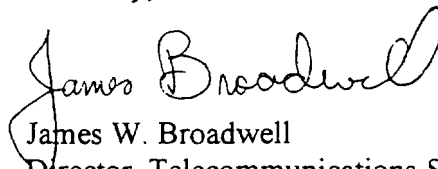
Ms. Ellen Wolfhagen
April 6, 2000
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Bernstein at the Common Carrier Bureau of the Federal Communications Commission who is unable to give us a time line for the FCC's decision on your proposal. My understanding is that your proposal was sent to the FCC on March 13, 2000.

I hope that you can understand North Carolina's predicament. Based on your web site's "Tips for Successfully Filing the Form 471" which advised us to "File your Form 471 Online," we attempted to do just that. Unfortunately, we got caught in a technology problem not of our own making. Our consortium clients – hundreds of schools and libraries across the state – will be negatively impacted if we do not get some relief.

Can you suggest any measures we may take to become part of the Year 3 window?

Sincerely,

A handwritten signature in cursive script that reads "James Broadwell". The signature is written in dark ink and is positioned above the printed name and title.

James W. Broadwell
Director, Telecommunications Services

JWB/KL/jw

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